D.B. CRIMINAL PAROLE WRIT PETITION NO. 2821/2006

DATE OF ORDER : 04.07.2006

HON'BLE MR. JUSTICE N.N.MATHUR
HON'BLE MR. JUSTICE R.P.VYAS

By post.
Mr. O.P.Rathi, Public Prosecutor.

The instant petition has been registered on the letter of convict undergoing sentence of imprisonment for life for offence under section 302 I.P.C.

It is averred that the applicant Naniya @ Narendra was convicted for offence under Section 304(I) I.P.C. and sentenced to imprisonment for 7 years by the judgment of learned Sessions Judge, Udaipur dtd.25.7.1978. However, conviction was converted to offence under section 302 I.P.C. by the Division Bench judgment of this Court dtd.30.10.1996. The petitioner preferred an appeal before the Supreme Court which has been dismissed by the judgment dtd.7.10.1999.

The petitioner is undergoing sentence of imprisonment for life. The Jail Department has supplied requisite information in prescribed proforma. He has undergone substantive sentence of 10 years and 6 months. He has earned remission of 3 years and 9 months. The period of remission cannot be added with

substantive sentence for the purpose of computing sentence of 14 years. The petitioner cannot be primarily released without completing substantive sentence of 14 years in view of the provisions of Section 433A Cr.P.C.

It is contended by the accused in his application that since incident is prior to coming into force of Section 433A Cr.P.C., the said prohibition cannot be applied in the instant case. It is the aspect which is required to be considered by the State Government. The petitioner may make an appropriate representation to the State Government in that regard.

Accordingly, the application stands dismissed. A copy of this order be sent to the convict.

(R.P.VYAS), J. **(N.N.MATHUR), J.**

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